Autobond Corporation *and* International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO, and Local 2304 (f/k/a Autobond Shop Committee). Cases 7–CA–33424, 7–CA–33536, and 7–CA–33604

April 12, 1993

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS DEVANEY AND RAUDABAUGH

Upon charges filed by International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO, and its Local 2304 (f/k/a Autobond Shop Committee) (jointly referred to here as the Union) on June 24, July 30, and August 18, 1992, the General Counsel of the National Labor Relations Board issued separate complaints[1] against Autobond Corporation, the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charges and complaints, the Respondent has failed to file an answer.[2]

On March 12, 1993, counsel for the General Counsel filed a Motion for Default Judgment. On March 17, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaints state that unless an answer is filed within 14 days of service, "all the allegations in the complaint shall be considered to be admitted to be true and shall be so found by the Board."

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation with an office and place of business in Grand Rapids, Michigan, has been engaged in the manufacture, nonretail sale, and distribution of automated welding equipment. During the calendar year ending December 31, 1991, a representative period, the Respondent, in the course and conduct of its business operations, derived gross revenues in excess of $500,000 and, during the same period, manufactured, sold, and distributed at its Grand Rapids facility products valued in excess of $50,000 directly to points located outside the State of Michigan. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

Since about 1988, and at all material times, the Union, pursuant to Section 9(a), has been the designated exclusive collective-bargaining representative of the Respondent's employees in an appropriate unit and has, since then, been recognized as such by the Respondent in collective-bargaining agreements, the most recent of which was effective from December 1, 1989, through February 8, 1993. On or about February 8, 1992, the members of Autobond Shop Committee voted to affiliate with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO, and is now known as Local 2304. The affiliation has been recognized by the Respondent. The appropriate bargaining unit consists of:

> All shop hourly employees employed by Autobond Corporation at its facility located at 706 Bond Avenue, N.W., Grand Rapids, Michigan; but excluding all office clerical employees, engineering employees, guards and supervisors as defined in the Act.

In or about the third week of June 1992, the Respondent, through its crisis manager, Henry Meyer, its general manager, Roger Riggs, and its manufacturing manager, Gary Moore, failed and refused to pay vacation pay due and owing to its unit employees as required by the parties' most recent collective-bargaining agreement.[3] The Respondent engaged in such conduct without the Union's consent and without prior notice to the Union and without affording it an opportunity to bargain over its actions. At or about the same time, the Respondent, through Meyer, Riggs, and Moore,

[1] The complaints were consolidated for hearing by order dated October 1, 1992.

[2] By letter dated February 25, 1993, the Respondent, through its attorney, withdrew the answers filed in this case. The withdrawal of an answer has the same effect as a failure to file an answer. *Maislin Transport*, 274 NLRB 529 (1985).

[3] The complaint alleges, and we find, that Meyer, Riggs, and Moore are supervisors and agents of the Respondent within the meaning of Sec. 2(11) and 2(13) of the Act.

failed and refused, and is continuing to fail and refuse, to comply with the Union's request for information regarding the exact amount of vacation pay that was due and owing to the unit employees. The information requested by the Union is necessary for, and relevant to, the Union's performance of its role as the unit employees' exclusive bargaining representative.

On or about July 31, 1992, the Respondent, without the Union's consent and without prior notice to the Union or affording it an opportunity to bargain, laid off the unit employees without giving them the contractually required 24-hour written advance notice or 8 hours pay in lieu thereof, and, since on or about the same date, has failed to continue the health insurance coverage for unit employees for 90 days, as required by the agreement. By engaging in the above-described conduct, the Respondent has failed and refused and is failing and refusing to bargain collectively and in good faith with the Union as the unit employees' exclusive bargaining representative within the meaning of Section 8(d), and has violated Section 8(a)(5) and (1) of the Act, as alleged.

CONCLUSION OF LAW

By failing and refusing to pay unit employees vacation pay, failing and refusing to provide the Union with certain requested information pertaining to the exact amount of vacation pay due and owing to unit employees, laying off unit employees without giving them written notice 24 hours in advance or 8 hours pay in lieu thereof, and failing to continue health insurance coverage for unit employees for 90 days, which conduct affects the unit employees' wages, hours, and other terms and conditions of employment and involve mandatory subjects of bargaining, the Respondent has failed and refused to bargain collectively with the Union as the unit employees' exclusive bargaining representative, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1), Section 8(d), and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent shall be ordered to make whole unit employees by paying them the contractually required vacation pay that it has refused to pay since about the third week of June, 1992, as set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), with interest on such amounts be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and to furnish the Union the information requested regarding the exact amount of vacation pay that is due and owed to the unit employees.

Further, the Respondent shall be required to offer all laid-off unit employees immediate and full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges previously enjoyed, and to make them whole for any loss of earnings and other benefits suffered as a result of the Respondent's unlawful conduct, in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, supra. Finally, the Respondent shall be ordered to make whole unit employees for any expenses they may have incurred because of the Respondent's failure and refusal to continue the unit employees' health insurance coverage for 90 days following their layoff, with interest as set forth in *New Horizons for the Retarded*, supra.

ORDER

The National Labor Relations Board orders that the Respondent, Autobond Corporation, Grand Rapids, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO, and Local 2304 (f/k/a Autobond Shop Committee), which is the designated exclusive collective-bargaining representative of the Respondent's employees in an appropriate unit, by refusing to pay unit employees their vacation pay, refusing the Union's request for information that is necessary for and relevant to the Union's performance of its collective-bargaining obligation on behalf of unit employees, laying off unit employees without giving them a 24-hour advance written notice or 8 hours pay in lieu thereof, and without affording the Union prior notice or an opportunity to bargain, and by failing to continue health insurance coverage for 90 days for the laid-off unit employees. The appropriate bargaining unit consists of:

> All shop hourly employees employed by Autobond Corporation at its facility located at 706 Bond Avenue, N.W., Grand Rapids, Michigan; but excluding all office clerical employees, engineering employees, guards and supervisors as defined in the Act.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Make whole unit employees by paying them the vacation pay due and owing to them which has not been paid since about the third week of June 1992, with interest as set forth in the remedy section of this decision, and furnish the Union with the information requested relating to the exact amount of vacation pay that is due and owed to the unit employees.

(b) Offer all laid-off unit employees immediate and full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges previously enjoyed, and make them whole for any loss of earnings and other benefits suffered as a result of the Respondent's unlawful conduct, including any expenses they may have incurred resulting from the Respondent's failure to continue their health insurance coverage for 90 days, with interest as set forth in the remedy section of this decision.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all others records necessary to analyze the amounts due under the terms of this Order.

(d) Post at its facility in Grand Rapids, Michigan, copies of the attached notice marked "Appendix."[4] Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[4] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to bargain collectively and in good faith with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL–CIO, and Local 2304 (f/k/a Autobond Shop Committee), which is the designated exclusive bargaining representative of our employees in an appropriate unit, by refusing to pay unit employees the vacation pay that is due and owed to them, refusing to comply with the Union's request for information relating to the amount of vacation pay due and owed to unit employees, laying off unit employees without giving them a 24-hour advance written notice or 8 hours pay in lieu thereof and without prior notice to the Union or affording it an opportunity to bargain, and failing and refusing to provide the laid-off employees with health insurance coverage for 90 days. The appropriate bargaining unit consists of:

> All shop hourly employees employed by Autobond Corporation at its facility located at 706 Bond Avenue, N.W., Grand Rapids, Michigan; but excluding all office clerical employees, engineering employees, guards and supervisors as defined in the Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL make whole unit employees by paying them the vacation pay that has not been paid them since about the third week of June 1992, with interest, and WE WILL furnish the Union with the information requested relating to the exact amount of vacation pay that is due and owed the unit employees.

WE WILL offer all laid-off unit employees immediate and full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges previously enjoyed, and WE WILL make them whole for any loss of earnings and other benefits they may have suffered as a result of the Respondent's unlawful conduct, including any expenses they may have incurred resulting from the Respondent's failure to continue their health insurance coverage for 90 days, with interest.

AUTOBOND CORPORATION